

**DURHAM CITY COUNCIL WORK SESSION**  
**Thursday, October 10, 2013 – 1:00 p.m.**  
**Committee Room – 2<sup>nd</sup> Floor – 101 City Hall Plaza**

**Present: Mayor William V. “Bill” Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eugene Brown, Diane Catotti, Don Moffitt and Steve Schewel. Absent: Council Member Howard Clement, III.**

**Also present: Deputy City Manager Wanda Page, City Attorney Patrick Baker and City Clerk D. Ann Gray.**

The meeting was called to order by Mayor Pro Tempore Cole-McFadden.

Mayor Pro Tempore Cole-McFadden asked if there were any announcements from the council.

Council Member Moffitt briefed the council on the symposium being held by the Human Relations Commission.

Mayor Pro Tempore Cole-McFadden asked for priority items from the City Manager, City Attorney and City Clerk.

Deputy City Manager Wanda Page stated that a presentation will be made on Agenda Item #9 (Traffic Separation Study) and Agenda Item #10 (Mr. Timothy Ferry) will not be present at the meeting today to speak.

The Deputy City Manager’s items were accepted by the council.

City Attorney Baker asked for a closed session at the end of the meeting for attorney-client consultation, pursuant to GS 143.318.11(a)(3) handling of a legal action entitled Triangle Grading and Paving vs. City of Durham and Shaner Limited Partnership vs. City of Durham.

The City Attorney’s items were accepted by the council.

City Clerk Gray informed the council that Cathy Allred Gebhart, one of the applicants for the opening on the Durham Housing Authority Board, requested that her application be withdrawn from consideration. Also, the City Clerk provided a copy of Ms. Gebhart’s email requesting withdrawal her application.

Council Member Schewel requested the housing authority board vacancy be re-advertised. He said he was concerned because the housing authority is a 30 to 40 million dollar a year business and stated he would like to see more applicants apply with experience.

Motion by Council Member Schewel seconded by Council Member Brown to suspend the rules of the Council for the purpose of voting on re-advertising the Durham Housing Authority Board vacancy was approved at 1:06 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-

McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent At Time of Vote: Mayor Bell. Absent: Council Member Clement.

Motion by Council Member Schewel seconded by Council Member Catotti to direct the City Clerk to re-advertise the vacancy on the Durham Housing Authority Board of Commissioners was approved at 1:07 p.m. by the following vote: Ayes: Council Members Brown, Catotti, Moffitt and Schewel. Noes: Mayor Pro Tempore Cole-McFadden. Absent At Time of Vote: Mayor Bell. Absent: Council Member Clement.

After Mayor Pro Tempore Cole-McFadden announced each item on the printed agenda, the following items were pulled for comments, presentation and/or discussion.

**Subject: Joe Bowser**

To receive comments from Joe Bowser regarding police misconduct and its lack of response to a complaint he filed.

Note: Mr. Bowser was not present to speak at the meeting.

**Subject: Watershed Protection and Community Park Development – Southview Land Purchase**

To approve an option for the fee simple acquisition of +/- 134 acres of undeveloped land from the Trust for Public Land, identified as a portion of existing Parcel ID 194086, for a purchase price of \$450,000.00 with the option to be exercised only if Durham County approves participation in the purchase and appropriates \$200,000.00;

To authorize the City Manager to sell under the authority of NCGS 160A-274 and either the Mayor or the City Manager to convey by deed, 104 acres of the 134 acres to Durham County for \$200,000.00 subject to an interlocal agreement that details the City-County relationship; and

To adopt an Ordinance amending the Water and Wastewater Capital Improvement Project Ordinance, Fiscal Year 2013-2014, the same being Ordinance # 14465, for the purpose of adding funding in the amount of \$450,000.00 for the Watershed Protection – Southview Property project.

The staff report indicated there are several sensitive stream areas within the Falls Lake watershed. According to the DENR/Division of Water Quality stream classification, these tributary streams are on the 303(d) list as nutrient sensitive and are a habitat for two rare aquatic species. The areas surrounding the streams are listed as priorities for protection due to their ability to help offset nutrient levels and biological impairments affecting the Falls Lake water supply. The Trust for Public Land (TPL) has identified a parcel of land off of Southview Road for watershed protection. City staff from the Departments of Parks and Recreation (DPR), Water Management (WM), General Services (Real Estate division) and Durham County staff has negotiated the proposed purchase of 134 acres with TPL (see attached map) to protect this portion of the Falls Lake

watershed. Additionally, the City of Raleigh will support this purchase by contributing \$250,000.00 from its Upper Neuse Clean Water Initiative (UNCWI) and the State of North Carolina will participate by adding \$500,000.00 from the Clean Water Management Trust Fund (CWMTF).

In addition to the watershed protection benefits, this parcel can be developed jointly by the City and County as a community park, providing recreational space for an underserved area of the City and County. Currently neither the City nor County has identified any specific park development in this area in their strategic plans. Further, neither entity has appropriated or designated funding for such park development. Durham County will maintain the site until such time as a park is developed on the City's portion of the property. At that time, maintenance may be transferred to the City.

The total initial cost for the City for this parcel is \$450,000, but it is anticipated that Durham County will reimburse the City for a portion. It is proposed that Durham County partner with the City of Durham on this acquisition and purchase 104 acres of the parcel from the City for \$200,000.00 after the parcel is subdivided as authorized by North Carolina General Statute 160A-274. The remaining \$250,000.00 is proposed to be funded by the existing \$210,114.00 in the watershed protection fund and \$39,886.00 will be transferred from CIP fund balance to be reimbursed as fees are collected.

David Fleischer, of the General Services Department, commented on the private house located on private property and said it should not and will not impact the development of the parcel being proposed for a park.

**Subject: Raleigh-Durham Airport Authority Annual Report**

To receive an annual report on the State of Affairs of Raleigh-Durham Airport Authority/RDU International Airport.

Robert Teer and Farad Ali, members of the RDU Airport Authority Board and Board presented a power point presentation on the annual report on the State of Affairs of Raleigh-Durham Airport Authority including RDU International Airport.

The council was also provided a handout on this item.

**Subject: Durham Performing Arts Center Oversight Committee Annual Report**

To receive the Durham Performing Arts Center Oversight Committee Annual Report.

MaryAnn Black, Chair of the DPAC Committee, presented the following annual report:

## **Durham Performing Arts Center (DPAC) Oversight Committee Report**

July 2012- June 2013

1. The DPAC Oversight Committee met 5 times during the 2012-2013 fiscal year (September 11, 2012, December 11, 2012, March 13, 2013, March 25, 2013, and June 11, 2013).
2. The Oversight Committee reviewed in detail the third full-year financial statements from the Operator which covered the period July 2011 through June 2012.
3. At each meeting the Committee has received detailed report from the DPAC Operator as well as update from the City on operational as well as physical aspects of the DPAC.
4. The Committee has provided the Operator advice and recommendations on prioritizing and adding items to the Capital Expenditures Budget.
5. The Oversight Committee reviewed and recommended to the City Manager the 2014 Capital Expenditures Budget presented by the Operator including the prioritization of the items.
6. The Committee held a special meeting to discuss the proposed changes to DPAC Operating Agreement and provide feedback to the City Administration.
7. The Committee decided to suspend further development of the Walk of Fame proposal until next year due to the construction of the DPAC Wrapper Building.
8. The Committee expects to discuss and make recommendations on a marquee for the DPAC during FY 2013-14.
9. At present, the Committee does not have any areas of non-compliance by the Operator relative to the Operating Agreement.

Also, General Manager Bob Klaus presented the previous season and upcoming season highlights for the DPAC.

Community Development Director Reginald Johnson provided council a news release noting that the City of Durham has released 2013 financial results for the Durham Performing Arts Center, showing the City earned \$1.3 million, according to the preliminary, unaudited financial statement for the period ending June 30. The City owns the facility, which is managed by PFM/Nederlander, operators of the performing arts and entertainment facilities in America and worldwide.

According to the preliminary statement, Durham Performing Arts LLC generated a net income of a little more than \$3.3 million, of which, pursuant to the operating agreement with the City, 40 percent, or about \$1.3 million will be distributed to the City. The income will go into the City's DPAC fund, used for debt service, maintenance, building improvements and other possible revenue shortfalls, including naming rights and hotel/motel occupancy tax.

## **Subject: Durham Traffic Separation Study (TSS)**

To conduct a public hearing to receive citizens' comments on the Durham Traffic Separation Study (TSS).

The staff report indicated that a Traffic Separation Study (TSS) has been prepared over the past two years to provide a comprehensive evaluation of traffic patterns and road usage at 18 public at-grade rail crossings. The purpose of the study is to assess existing conditions and determine needed improvements to enhance rail crossing safety. The study evaluated 18 at-grade crossings in Durham along the North Carolina Railroad (NCRR) corridor from Neal Road east to E. Cornwallis Road. The study also evaluated the Chapel Hill Street and Roxboro Street grade-separated crossings to develop more detailed recommendations for pedestrian enhancements and connectivity along the rail corridor in downtown. The project study included data collection, crossing analysis, safety and mobility issues, community impact, alternatives analysis, and public involvement.

The study report identifies and recommends a series of near-term (2-5 years), mid-term (5-7 years), and long-term (more than 7 years) crossing improvements. The long-term improvements are more complex and will require significant funding commitments for further detailed study and implementation. The TSS provides a sound foundation to seek funding from federal, state, regional and local funding sources. It also provides planning guidance for the development and implementation of other transportation improvement projects and land development. The draft TSS report was released to the public September 20, 2013 and is available for review on the City of Durham's website.

Matt West, of Kimley-Horn & Associates, presented a power point presentation on this item commenting on the following topics:

### **Project Background**

- The City entered into a Traffic Separation Study agreement with NCDOT, Norfolk Southern and Triangle Transit
- The City Council approved \$20,000 for the study
- The project began in August 2011

### **How the Study Will be Used**

- Provides guidance to the City, NCDOT, NS, and NCRR when identifying and implementing safety improvements along the NCRR corridor through Durham County
- Provides information for the City, NCDOT, NS, and NCRR to make near-and mid-term safety improvements
- Provides ranking of long-term projects that may be selected for further study
- Provides justification and foundation needed to pursue alternative funding sources

### **Durham Study Limits**

- 18 at-grade crossings
- 2 grade-separated crossings\
- 1 proposed crossing
- Neal Road to Cornwallis Road

- Divided into three sections (West Section: Neal Road to Buchanan Boulevard; Downtown Section: Gregson Street to Driver Street; East Section: Ellis Road to Cornwallis Road)

#### Safety Improvements Considered

- Near-Term 2-5 Years (upgraded crossing safety equipment; signs and pavement markings; medians and barriers; bike and pedestrian improvements)
- Mid-Term 5-7 Years (gates and flashers; roadway traffic signals; and medians & barriers)
- Long-Term more than 7 years (grade separations; crossings closures and pedestrian grade separations)

#### Outreach Efforts

- Council Work Sessions
- Stakeholder Meetings
- Public Involvement

#### Near-Term Alternatives – Key Points

- The City has already completed several of the near-term alternatives recommended as part of this study
- Additional near-term alternatives may be paid for through City, NCDOT, and other funding sources

#### Long-Term Alternatives – Key Points

- Due to the complexities of the study, a ranking process was used to assist stakeholders in identifying those projects which best balance safety improvements, cost benefit, community input, environmental impact, and general need
- Long-term alternatives would be selected for further study as funding becomes available
- Additional public involvement and environmental assessment will be included in future studies
- Any long-term improvement project may be selected at any time for further study if conditions warrant

Also Matt West, the consultant, commented on the long-term alternative ranking; West Section (near and mid-term alternatives); Downtown section - near to mid-term alternatives; East Section (near and mid-term alternatives).

#### Next Steps

- The City has already completed many of the near-term alternatives recommended as part of this study
- Public Hearing scheduled for October 21, 2013
- December Council Meeting – seeking a resolution to endorse TSS including recommendations and priority list
- City and NCDOT to begin using study as a foundation for seeking out funding for future improvements

The council held discussion on the following: cost estimates; estimated cost for a feasibility study; legal issues regarding what can and cannot be done by public-private partnerships; cost of pedestrian underpass vs. overpass; accepting the report rather than endorsing the recommendations in the report; requests of Norfolk Southern Railway; the concerns/desires of the Durham community and the development of downtown; getting this project scored in the statewide tier; engagement of downtown stakeholders; grade separation having a tremendous impact on the urban environment; a future council's role with this study and the real impact of the current council endorsing this plan; and the TCC's role in the process;

Deputy City Manager Wanda Page stated pertaining to the item before the council, the administration will be making tweaks and recommendations before the December final report and they will review all the comments that have been made. She said this is just to receive the draft and to hold a public hearing on October 21, 2013.

Council Member Brown asked the administration to come back with some recommendations on exactly where the funds will come from.

The council thanked the staff for the presentation.

### **Settling the Agenda – October 21, 2013 City Council Meeting**

Deputy City Manager Wanda Page announced the items for the October 21, 2013 City Council Meeting agenda: Consent Items 2 thru 6; and 12 and GBA Public Hearing Item 9.

Motion by Council Member Catotti seconded by Council Member Brown to approve the agenda for the October 21, 2013 City Council Meeting as stated by the Deputy City Manager.

The motion was approved by a vote of 6/0 at 2:55 p.m.

### **Closed Session – 2:55 p.m.**

Motion by Council Member Moffitt seconded by Council Member Brown to go into closed session for attorney-client consultation, pursuant to GS 143-318.11(a)(3) - Triangle Grading & Paving vs. City of Durham; and Shaner Limited Partnership vs. City of Durham,

The motion was approved by a vote of 6/0 at 2:55 p.m.

### **Open Session – 3:19 p.m.**

Motion by Council Member Moffitt seconded by Council Member Brown to return to open session.

The motion was approved by a vote of 6/0 at 3:19 p.m.

No action was taken in open session.

There being no further business to come before the council, the meeting was adjourned at 3:19 p.m.

D. Ann Gray, MMC, NCCMC  
City Clerk